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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6896)

Margie Wakefield for Kansas)

and Doni Mooberry Slough as treasurer)

Margie Wakefield)

DISMISSAL AND CASE
CLOSURE UNDER **CEEA**
ENFORCEMENT PRIORITY
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System ("EPS"), the Commission uses formal scoring criteria as a basis to allocate its resources and decide which matters to pursue. These criteria include without limitation an assessment of the following factors: (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), and developments of the law. It is the Commission's policy that pursuing relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss cases under certain circumstances or, where the record indicates that no violation of the Act has occurred, to make no reason to believe findings. The Office of General Counsel has scored MUR 6896 as a low-rated matter and has determined that it should not be referred to the Alternative Dispute Resolution Office.¹

¹ The EPS rating information is as follows:
Response Filed: November 21, 2014.

1 For the reasons set forth below, the Office of General Counsel recommends that the
2 Commission dismiss the allegations that Margie Wakefield for Kansas² and Doni Mooberry
3 Slough in her official capacity as treasurer (collectively the "Committee") failed to include
4 disclaimers on its yard signs, as required by 52 U.S.C. § 30120(a) and 11 C.F.R.
5 §§ 110.11(a)(1) and (b)(1). The Office of General Counsel also recommends that the
6 Commission find no reason to believe that Margie Wakefield ("Wakefield") violated the Act
7 and Commission regulations.

8 Complainant Cheryl Reynolds alleges that the Committee produced and distributed
9 yard signs lacking the appropriate disclaimers. Compl. at 1-2. The Complainant asserts that
10 the allegedly defective yard signs were displayed "all over the district." *Id.* The Complaint
11 includes a page from the Committee's October Quarterly Report disclosing a disbursement of
12 \$6,747.34 for "campaign lawn signs." *Id.*; *see also id.*, Attach. 1. Also appended to the
13 Complaint are copies of what appear to be six yard signs displaying the campaign slogan
14 "Margie Wakefield for Congress," which lack a statement that the Committee had paid for
15 them, *see id.*, Attach. 2 at 1-3.³ Therefore, the Complainant concludes that the Committee's
16 campaign signs violated the Act and Commission regulations, which require disclaimers on
17 public communications paid for by political committees, including "general public political
18 advertising," such as yard signs. *Id.* at 1-2.

² In 2014, Wakefield unsuccessfully sought to represent Kansas's Second Congressional District.

³ The Complainant also attaches, without explanation, what appear to be two Facebook pages for "Margie Wakefield for Kansas," *see id.*, Attach. 2 at 4-5.

1 The Committee asserts that under Kansas state law⁴ campaign yard signs are not
2 required to include “‘paid for by’ attribution” language and, therefore, the Committee acted in
3 good faith when it omitted the language from its yard signs. Resp. at 1-2.⁵ Once it was
4 informed of the Commission’s “paid for by” requirement, the Committee states that it took
5 remedial action by having its staff affix labels with appropriate disclaimers to the yard signs.
6 *Id.* The Committee includes a copy of a campaign sign with a label bearing the statement
7 “Paid for by Margie Wakefield for Kansas.” *Id.*, Attach. at 1-2.

8 Political committees, including candidate committees, which make disbursements for
9 a public communication, must include a disclaimer stating that the Committee paid for the
10 communication. 52 U.S.C. § 30120(a); *see also* 11 C.F.R. §§ 110.11(a)(1) and (b)(1). A
11 public communication is “a communication by means of any broadcast, cable, or satellite
12 communication, newspaper, magazine, outdoor advertising facility, mass mailing, or
13 telephone bank to the general public, or any other form of general public political
14 advertising.” 52 U.S.C. § 30101(22); *see also* 11 C.F.R. § 100.26. Signs are encompassed by
15 the term “any other form of general public political advertising,” although they are not
16 specifically enumerated under 52 U.S.C. § 30101(22) or 11 C.F.R. § 100.26. *See* 11 C.F.R.
17 § 110.11(c)(2)(i) (specific reference to “signs” in a provision setting out more specific
18 requirements for disclaimers on printed communications); *see also* MUR 6032
19 (Tom Leatherwood for Congress) Factual and Legal Analysis (dismissal of low-rated matter

⁴ As authority, the Committee cites to an FAQ posted by the Kansas Governmental Ethics Committee, available at <http://ethics.ks.gov/CFAForms/FrequentlyAskedQuestions.html>, which states that Kansas state law does not require “paid for by” language for campaign yard signs. *Id.* at 1.

⁵ The Committee also observes that the definition of “public communication,” as set forth in 11 C.F.R. § 100.26, does not specifically address yard signs. *Id.* at 1.

1 involving, in pertinent part, the lack of disclaimer on yard signs that the Committee later
2 corrected).

3 It appears that the Committee failed to affix appropriate disclaimers on its yard signs
4 as a possible result of its misinterpretation of the Act and Commission regulations. However,
5 the signs contained information identifying them as Wakefield campaign signs and, therefore,
6 it is unlikely that the public would have been misled. In addition, once the Committee was
7 made aware that its signs required disclaimers, it remedied its error by having labels bearing
8 the requisite "paid for by" language affixed to the signs.

9 Accordingly, in light of the Committee's remedial action, further Enforcement
10 resources are not warranted and, consequently, the Office of General Counsel recommends
11 that the Commission exercise its prosecutorial discretion and dismiss the allegation that
12 Margie Wakefield for Kansas and Doni Mooberry Slough, in her official capacity as
13 treasurer, violated 52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1).
14 *See Heckler v. Chaney*, 470 U.S. 821 (1985). In addition, since there is no evidence to
15 suggest that Margie Wakefield was responsible for the missing disclaimers, the Office of
16 General Counsel recommends that the Commission find no reason to believe that she
17 violated 52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1). Finally, this Office
18 recommends that the Commission approve the attached Factual and Legal Analysis and the
19 appropriate letters and close the file.

20 **RECOMMENDATIONS**


- 21
22 1. Dismiss the allegation that Margie Wakefield for Kansas and Doni Mooberry Slough
23 in her official capacity as treasurer violated 52 U.S.C. § 30120(a) and 11 C.F.R.
24 §§ 110.11(a)(1) and (b)(1);
25

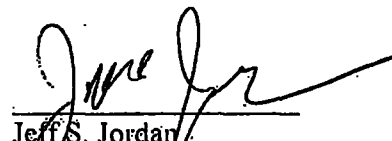
2. Find no reason to believe that Margie Wakefield violated 52 U.S.C. § 30120(a) and 11 C.F.R. §§ 110.11(a)(1) and (b)(1);
3. Approve the attached Factual and Legal Analysis and the appropriate letters; and
4. Close the file.

Daniel A. Petalas
Acting General Counsel

12/14/15
Date

BY:


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